

REMARKS

Claims 1-10 and 34 are now pending in the application. Independent claims 1 and 2 are amended herein to clarify their scope. Support for the amendments can be found at least in Figures 1, 2, and 5 of the instant application. No new matter is added. Claims 3-8 and 34 are amended herein to be consistent with the amendments to claims 1 and 2. No new matter is added. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

TELEPHONIC INTERVIEW

The Examiner is respectfully thanked for the Telephonic Interview of March 5, 2007. During the Interview no exhibits were given nor any demonstrations conducted. The rejection of claims 1 and 2 relative to the Schafer reference and to the Faris et al. reference were discussed.

REJECTION UNDER 35 U.S.C. § 112

Claims 1 and 34 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. This rejection is respectfully traversed.

Applicants respectfully submit that the subject matter of claims 1 and 34 is supported by the specification. Specifically, Applicants direct the Examiner's attention to Figures 1 and 5 wherein a flow path 52 interconnects outlets 34, 37 of the respective first and second anode sections 30, 32. Flow path 52 thereby provides flow communication between the first and second anode sections through their respective

outlets. A valve 54 communicates with the flow path 52 and is operable to modulate venting of anode effluent from flow path 52. Valve 54, however, is not shown as being disposed in-line with the communication flow path (flow path 52) between the anode outlets 34, 37 of the first and second anode sections 30, 32. Rather, valve 54 is disposed in a flow path (unnumbered) that tees off of flow path 52. With valve 54 being in a separate flow path, valve 54 does not impede flow communication between the outlets 34, 37 of the first and second anode sections 30, 32 regardless of its operational state. That is, whether valve 54 is open or closed, the communication between the outlets 34, 37 of the first and second anode sections 30, 32 remains unimpeded. This is in direct contrast to the case where a valve is disposed in-line with flow path 52 such that the operational state of the valve will impede the flow of communication between the outlets. Furthermore, a similar arrangement is shown in Figure 2 between flow path 52' and valve 54'.

Thus, it is respectfully submitted that support for claims 1 and 34 can be found at least in Figures 1, 2, and 5 of the instant application. As such, it is respectfully submitted that claims 1 and 34 comply with the written description requirement and withdrawal of the instant rejection is requested.

REJECTION UNDER 35 U.S.C. § 102

Claims 1-8, 10, and 34 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Schafer (U.S. Publication No. 2004/0166383). This rejection is respectfully traversed.

Amended claims 1 and 2 are patentable over the Schafer reference because the Schafer reference does not disclose the third flow path that connects outlets of two anode sections without passing through another anode section as called for in claims 1 and 2. Specifically, claims 1 and 2 both call for “a third flow path connecting an outlet of said first anode section to an outlet of said second anode section without passing through an anode section, said third flow path thereby providing flow communication between said first and second anode sections through said outlets.” In contrast, the Schafer reference appears to disclose flow paths that interconnect an outlet of one anode section to an inlet of another anode section. In order for the anode outlet of one anode section to communicate with the anode outlet of another section, the interconnecting flow path must flow through another anode section. Thus, it is respectfully submitted that for at least this reason the Schafer reference does not anticipate claims 1 and 2. Claims 3-8, 10, and 34 all depend from one of claims 1 and 2 and, therefore, are also patentable over the Schafer reference. Accordingly, withdrawal of the instant rejection is requested.

Claims 1, 5-8, and 10 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Faris et al. (U.S. Publication No. 2004/0048133). This rejection is respectfully traversed.

Claim 1 is not anticipated by the Faris et al. reference because the Faris et al. reference does not disclose cathode and anode sections that are operable to convert an oxidant-containing cathode reactant and a hydrogen-containing anode reactant into electricity, a cathode effluent, and an anode effluent and also does not disclose a valve

communicating with the third flow path and operable to modulate venting of the anode effluent from the third flow path as called for in claim 1. Specifically, claim 1 calls for:

wherein said at least one cathode section and said at least two anode sections are operable to convert an oxidant-containing cathode reactant and a hydrogen-containing anode reactant into electricity, a cathode effluent, and an anode effluent . . . a valve communicating with said third flow path and operable to modulate venting of anode effluent from said third flow path, said valve not impeding flow communication between said outlets of said first and second anode sections through said third flow path regardless of an operational state of said valve.

In contrast, the Faris et al. reference discloses metal/air batteries that utilize a metal paste as an anode reactant. See at least Paragraphs [0038], [0044], [0045], [0048], and [0055] of the Faris et al. reference. A metal paste anode reactant is not a hydrogen-containing reactant as called for in claim 1. Thus, for at least this reason it is respectfully submitted that claim 1 is not anticipated by and is patentable over the Faris et al. reference.

Also in contrast to the subject matter of claim 1, the Faris et al. reference discloses a pump 42 that is used to remove reactants from cells 48. Pump 42, however, is not a valve. Moreover, when interpreting the meaning of the terms in claim 1, the terms are to be given their broadest reasonable interpretation consistent with the specification. See MPEP § 2111. In interpreting the meaning of the term “valve” in claim 1, the Examiner has interpreted it as including a “pump.” It is respectfully submitted, however, that a pump is not a valve and that it is unreasonable to interpret the pump of the Faris et al. reference with the valve called for in claim 1. Furthermore, it is also respectfully submitted that the ordinary and customary meaning of the term “valve” to a person of ordinary skill in the art would not include a pump. Thus, it is

respectfully submitted that the Examiner has impermissibly used an unreasonable interpretation of the term “valve” in claim 1 and that such unreasonable interpretation is also contrary to the ordinary and customary meaning to one skilled in the art.

Thus, for at least this additional reason it is respectfully submitted that claim 1 is patentable over the Faris et al. reference. Claims 5-8 and 10 all depend from claim 1 and, therefore, are also patentable over the Faris et al. reference. Thus, withdrawal of the instant rejection is requested.

REJECTION UNDER 35 U.S.C. § 103

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Schafer. Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Faris et al. These rejections are respectfully traversed. Notwithstanding, claim 9 depends from claim 1 which is patentable. Accordingly, claim 9 is also patentable and withdrawal of the instant rejection is requested.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the

Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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